



National Tribal Toxics Council

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February 13, 2014

Tom Simons

Office of Chemical Safety and Pollution Prevention (OCSPP)

William Jefferson Clinton Building

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Washington, DC 20460

RE: Response to Tribal Consultation E.O. 13175, December 12, 2014,
PCB Use Authorizations Request for EPA to Develop PCB Action Plan

Dear Mr. Simons:

The National Tribal Toxic Council (NTTC) proposes that EPA develop an action plan for addressing PCBs in the environment, focusing on source control. Continued uses of PCBs must be considered to address EPA's "rulemaking objective to prevent future releases of and related exposures to PCBs," as stated in EPA's Consultation letter dated October 31, 2013.

EPA's TSCA Work Plan Chemicals: Method Document, February 2012, identifies potential candidate chemicals for near-term review and assessment under TSCA. In this document, EPA states "PCBs were excluded from the Work Plan because they are already comprehensively regulated under TSCA, which bans their manufacture, processing, use and distribution in commerce". Chemicals covered by Action Plans or other currently ongoing regulatory activities under TSCA were also excluded because they had been recently reviewed and are already being addressed." This is a simplified statement that interprets TSCA as having sufficient regulations in place to protect people from exposures to PCBs. However, TSCA does not have any provisions to review and assess the impact of the 50ppm level of PCBs that are currently allowed as an inadvertent product in the manufacturing process. Additionally, the 2010 ANPRM on PCB Reassessment of Use Authorizations states the following considerations that are no longer being considered by EPA:

B. Excluded Manufacturing Process The current definition states, "The concentration of inadvertently generated PCBs in products leaving any manufacturing site or imported into the United States must have an annual average of less than 25 ppm, with a 50 ppm maximum." EPA is considering whether to eliminate the annual average and whether the maximum concentration should be set at < 1 ppm.

C. Recycled PCBs The current definition states, "The concentration of PCBs in paper products leaving any manufacturing site processing paper products or paper products imported into the United States must have an annual average of less than 25 ppm, with a 50 ppm maximum." EPA is considering whether to revise the annual average and whether the maximum should be lowered. Additionally, the

definition requires the release of PCBs to ambient air at any point be at concentrations <10 ppm. EPA is considering whether the maximum allowable PCB concentration released to air should be lowered to be consistent with what the Agency has said about PCB exposures from PCBs in caulk (Ref. 49).

EPA 's Office of Pollution Prevention and Toxics is not currently recommending action to review and assess PCBs as indicated by OPPT Director, Wendy Clelend-Hamnett's statement, in her letter dated December 12, 2013:

EPA recognizes that many of the issues you highlighted [NTTC letter dated November 15, 2013] are of concern to tribal governments, but would require further consideration to determine if the agency should pursue regulatory revisions. For example, the reconsideration of the use of the 50 parts per million levels for excluded PCB products would require substantial and lengthy analytical efforts to determine whether a rulemaking is necessary.

How will EPA initiate this effort if it is currently excluded from the Agency's TSCA Work Plan Chemicals Methods Document?

NTTC is very concerned that the continued use of the 50ppm level for excluded PCB products is providing a pathway for continuing PCB release and related exposures through first foods. EPA should identify and remediate the PCBs presenting a substantial risk to the environment. Investigation and inventory of past spills and current uses of PCB sources is necessary to controlling sources. Controlling sources of residual PCBs being transported into local water bodies will be an essential means of complying with TMDLs for PCBs. A phase-out of remaining uses may be warranted due to the extremely low concentrations mandated in TMDLs to protect human health and the environment. This has the potential to improve water quality of rivers, streams, and the ocean by identifying, tracking, and controlling the main sources of PCBs that are currently entering the environment.

It has also come to our attention that there may not be enforcement measures in place to monitor PCB levels in imported products. NTTC would like clarification on how it is determined which imported products contain PCBs and what agency is responsible for monitoring the levels of PCBs in these products.

TSCA regulation is not sufficient for preventing future releases of and related exposures to PCBs; TSCA Work Plan Chemicals Method Document excludes PCBs from being reviewed and assessed. NTTC is requesting that EPA develop an action plan for addressing PCBs in the environment. Formal tribal input must be solicited through the consultation process to determine what should be included in the plan to prevent future releases of and related tribal exposures to PCBs. NTTC would also like to offer assistance by engaging in the plan development.

Sincerely,



Dianne C. Barton, Chair
National Tribal Toxics Council